

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

SOUTHERN CALIFORNIA
REGIONAL AUTHORITY DBA
METROLINK,

Plaintiff,

v.

CONNEX RAILROAD, LLC,

Defendant.

CV 08-6987-GW (JCx)

**I. ORDER TO SHOW CAUSE
RE SUBJECT MATTER
JURISDICTION;**

**II. ORDER DECLINING TO
CONSENT TO THE TRANSFER
OF THE MAGDALENO CASE
PURSUANT TO GENERAL
ORDER 08-50**

I. On October 22, 2008, Plaintiff Southern California Regional Rail Authority dba Metrolink ("SCRRA") filed this action containing a single cause of action for declaratory relief against Defendant Connex Railroad, LLC ("Connex"). The sole basis for federal jurisdiction referenced in the Complaint (at paragraph 4) is 28 U.S.C. § 1332, purportedly because SCRRA is a California joint powers authority and Connex is a Delaware limited liability company. However, as held in Johnson v. Columbia Properties Anchorage, LP, 437 F.3d 894, 899 (9th Cir. 2006), for purposes of diversity jurisdiction, limited liability companies are treated like partnerships rather than corporations. Hence, the citizenship of each of its members must be considered in determining if there is, in fact, diversity. Id.; see also Carden v. Arkoma Associates, 494 U.S. 185, 195-96 (1990). Therefore, because the Complaint fails to list the citizenship of each of the members of the defendant limited liability company, the Complaint at this point fails to establish a basis for federal jurisdiction. In light of the above, this Court sets an Order to Show Cause why this matter should not be dismissed for lack of subject matter jurisdiction on November 24, 2008 at 8:30

1 a.m. If an amended complaint is filed which remedies the above cited deficiency and
2 a courtesy copy provided to the Court by November 20, 2008, the Order to Show
3 Cause will be taken off-calendar.
4

5 **II.** This Court has received a request to transfer Magdaleno v. Southern California
6 Regional Rail Authority, Case No. CV 08-7019, from Judge Otero's docket to this
7 Court because it is sufficiently related to SCRRA's declaratory relief action. In the
8 present lawsuit, it is alleged that SCRRA and Connex entered into a contract wherein
9 Connex agreed to provide operator services for SCRRA's train. See Complaint at ¶
10 7. It is also alleged that the contract contains provisions regarding Connex's
11 agreement to provide defense and indemnification to SCRRA for liabilities arising
12 from or related to Connex's negligent acts, errors or omissions in the performance of
13 the services covered by the contract. Id. at ¶ 8.

14 On September 12, 2008, an SCRRA train operated by a Connex employee
15 collided with a Union Pacific train in Chatsworth, California. Id. at ¶ 9. Twenty-five
16 people were killed and scores were injured. Id. at ¶ 10. SCRRA claims that a dispute
17 has arisen between itself and Connex as to the rights and obligations under the
18 contract in regards to lawsuits which will be filed as a result of the accident. Id. at ¶¶
19 15-17.

20 The Magdaleno lawsuit was originally brought in state court by two of the
21 surviving heirs of Aida Magdaleno (one of the passengers killed in the September
22 12th accident) against SCRRA seeking damages under negligence and negligent
23 hiring/retention theories. The SCRRA removed that action to federal court asserting
24 federal question jurisdiction under 28 U.S.C. § 1331 and the Amtrak Reform and
25 Accountability Act of 1997, 49 U.S.C. § 28103(a)(2).

26 In seeking a transfer of the Magdaleno case from Judge Otero to this Court,
27 counsel has asserted that both that action and this declaratory relief lawsuit: 1) "arise
28 from the same or closely related transactions, happenings or events;" 2) "call for


1 determination of the same or substantially related or similar questions of law or fact;”
2 and/or 3) “for other reasons would entail substantial duplication of labor if heard by
3 different judges.” This Court respectfully disagrees.

4 First, the present declaratory relief lawsuit merely involves an issue of contract
5 law which can be resolved relatively quickly and without substantial discovery. In
6 comparison, the Magdaleno case will require litigation of both tort liability issues and
7 damages that will necessitate extensive discovery totally outside of the simple
8 contract issue in this action. Moreover, it would also seem that other negligence
9 lawsuits arising from the September 12 accident could be brought in and/or removed
10 to federal court which could, in turn, justify transferring all of those cases to a single
11 court since those cases will raise identical and/or very similar issues in regards to
12 negligence and liability. Thus, it is not readily apparent that this lawsuit and the
13 Magdaleno matter arise from the same or closely related transactions, happenings or
14 events.

15 Second, as noted above, it is unclear that “same or substantially related or
16 similar questions of law and fact” are involved in the Magdaleno case and this action.
17 Likewise, there would not appear to be any substantial duplication of labor if the two
18 cases (one of which arises under contract and the other arising from a purported tort)
19 are heard by different judges.

20 Therefore, pursuant to Section 5.2 of General Order 08-05 of the United States
21 District Court for the Central District of California, this Court declines to consent to
22 the transfer of the Magdaleno case to its docket as being sufficiently related to the
23 present action.

24
25 DATED: This 29th day of October, 2008

26
27 
28 GEORGE H. WU
United States District Judge